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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,750	04/25/2001	B. Arlen Young	ADPT1048	8262
7590 10/29/2004				
Forrest Gunnison Gunnison, McKay & Hodgson, L.L.P. Suite 220 1900 Garden Road Monterey, CA 93940			EXAMINER FAROOQ, MOHAMMAD O	
			ART UNIT 2182	PAPER NUMBER

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/842,750

Applicant(s)

YOUNG, B. ARLEN

Examiner

Mohammad O. Farooq

Art Unit

2182

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 7-15.Claim(s) objected to: 6.Claim(s) rejected: 1-5 and 16-21.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.

10. ☐ Other: \_\_\_\_\_

KIM HUYNH  
PRIMARY EXAMINER

10/26/04

Continuation of 5. does NOT place the application in condition for allowance because: In response to the remarks, the examiner states the following: a) the examiner rejected claim 7 in the office action dated 1/2/2004 which is more detailed and has an extra limitation than claim 1; Keaveny et al. teach the common limitations between claims 7 and claim 1; since claim 7 was allowed due to the extra limitation in final office action dated 6/17/2004, the limitations of claim 1 was anticipated by Keaveny et al. b) Microsoft computer dictionary (3rd edition) defines "packet" as "a unit of information transmitted as a whole from one device to another on a network"; therefore, Keaveny et al. inherently teach "packets or packetized data/command", c) the applicant states "substantially zero" without any type of numerical indication. Since claims are to be interpreted with broadest possible meaning, one would surely conclude Keaveny teaches the points mentioned above. Furthermore, the examiner agrees anticipation rejection has a stricter requirements than obviousness rejection; however, the examiner would like to point out anticipation rejection also has inherency in it which the examiner ~~partly~~ applied in rejecting claims in final office action dated 6/17/2004.

*Ad*